

AMENDMENTS TO THE DRAWINGS:

1. Please remove the original figure 2 from the Application and replace it with the Replacement Sheet attached hereto.

REMARKS

1. The Examiner indicated that the original drawing at Fig. 2 did not demonstrate a "plurality" of gabion layers having a plurality of compartments as was claimed in claim 7. The Replacement Sheet attached hereto corrects that informality.

2. Claim Rejections - 35 U.S.C. 102. The Examiner has stated his belief that claim 1, 6 and 7 are anticipated by Knott. As patent claims are to be interpreted by reference to the supporting specification, the inventor is of the belief that the instant specification makes clear that Knott's disclosure is incompatible with the purpose of the instant invention and, as such, does not anticipate the instant invention.

For example, page 3, lines 34-38 of the instant specification, states that a goal of the invention is to do no harm to the environment. Knott, on the other hand, discloses a gabion container with improved fastening capability for both simplified assembly and greater stability at the corners. This greater stability is necessary to contain the 4 to 8 inch diameter stone that Knott suggests for filler so that the filled gabions can be used, in part, to support bridges, retaining walls, weirs and noise barriers (Knott: col.1: Ins:10-15). Again, according to Knott, each of the gabion walls are preferably formed of wires having a gauge sufficient to provide the panel with a *substantial* degree of rigidity." (Knott: col.2: Ins:45-50) (emphasis added).

The problem being solved by Knott is entirely different. Not surprisingly, then, the materials being used in Knot are also different. As a result, all of the suggested uses set forth in Knott create a large force on the existing soil. In this regard, Knott solves a different problem than that of the instant invention and effectively teaches away from this inventor's disclosure.

The function and purpose of the Applicant's gabions is different from that disclosed in Knott. Knott's invention disclosure emphasizes structure and strength whereas the instant disclosure emphasizes flexibility, buoyancy and the advantages of volume displacement in order to protect the environment. When used as a supporting structure, the Knott apparatus relies on being strong in support. The instant invention, rather, is used with a large area being covered with gabions -- side by side -- to displace a large amount of water or to spread the weight per foot out such that an immense crane, having a weight on the order of 400,000 pounds, can be placed in an environmentally protected area without destroying the habitat or ecosystem.

If the stiff cages disclosed in Knott were used as envisioned in the instant application, they would create watery canyons through the protected wetlands and could irreversibly damage the ecosystem. Claims 1, 6 and 7 have been amended to emphasize these habitat-friendly and EPA -required benefits.

3. The Examiner has rejected claim 12 as being obvious pursuant to 35 U.S.C. 103(a) over Knott, Sr. # 5,860,551. The amended and new claims highlight the use to which the instant invention is especially applicable. Knott discloses a stiff and heavy gabion and stone assembly that may have use as a weir, a bridge abutment or the like. The instant invention is drawn to buoyant or near-buoyant gabion structures that can be used to support a 400,000 pound crane in a wetlands area without any appreciable damage to the fragile ecosystem. Because Knott makes no reference to weight being a consideration and because that disclosure states that heavy aggregate material such as stone" is preferred, it actually teaches away from the instant invention. (col. 1; Ins: 7-11 and col. 5; Ins: 5 - 9) Accordingly, the cited reference does not teach the invention as a whole and the obviousness rejection should be withdrawn and the claim allowed.

4. The Examiner has stated that Claims 4, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knott in view of Webster. Knott's relevance has been previously discussed; however, Webster teaches the use of sand poured into a sinusoidal matrix and held together with the use of a wrapper to create a roadway base for vehicular traffic.

In order to establish a prima facie case of obviousness, the references need to place the subject matter supporting the obviousness rejection in the public domain. In order to do so, it must be determined whether the combined teachings render the claimed subject matter obvious. In re Wood, 599 F.2d 1032 (C.C.P.A. 1979). In other words, the prior art must be enabling. Rockwell International Corp. v. U.S., 147 F.3d 1358 (Fed. Cir. 1998).

The combination of Webster and Knott do not render the instant application obvious because they both teach the use of very heavy structures that will ruin the existing habitat and environment (sand and stone). In that sense, the combination of the two patents actually teaches away from the instant invention. The materials suggested in the instant application are completely different because the problem being solved is completely different.

There is no motivation in the art or in the cited patents to combine these references. The problems associated with wetlands are not addressed, or even mentioned, in either Webster or Knott. In fact, asphalt, as suggested by Webster as a top surface, is prohibited by law in wetlands areas. As such, no motivation to combine the references exists in the art and a prima facie case of obviousness has not been made.

5. The Examiner has stated that claims 2-4, 8-11, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knott in view of Taguchi. As previously mentioned, Knott teaches away from the instant invention due to the use of stone as a filler and stiff basket material designed to prevent deformation.

Taguchi appears to disclose only a fiber-reinforced foam material. The claims in Taguchi consist solely of different formulations of the foamed material and none of the claims recite a particular application. The only reference in the specification of Taguchi to a use even remotely similar to the instant invention is at column 4, lns: 15-22. Even this section is ambiguous at best. When talking about the high strength of their foam, and as being a potential replacement for wood, the inventors state: "For instance, the fiber-reinforced foamed member of the present invention can be used as the material of various off-shore facilities such as airports, pontoon bridges, tennis courts, golf links and playgrounds." There is no other reference to pontoon bridges or any other type of bridge or roadway in the entire disclosure, so Applicant is at somewhat of a loss to address how the foamed "member" is intended to be used by Taguchi. Certainly, there is no reference to gabions or wetlands and it is suggested by Applicant that this singular reference to pontoon bridges cannot suggest motivation to combine the invention with gabions in order to support cranes and other large equipment in wetlands areas.

It should be noted that the Examiner, at page 8 of the Office Action, cited Taguchi as teaching a method of forming a floating bridge; however, Applicant was unable to locate the language cited by Examiner anywhere in Taguchi. Applicant is unaware of any portion of Taguchi that references a "floating bridge".

Knott was issued six years after Taguchi and does not reference the use of the material in Taguchi in any way. In fact, Knott teaches away from the instant invention rather than

teaching the use of foamed material as a filler material. Again, the purpose is altogether different.

6. The Examiner has stated that claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knott in view of Webster as applied to claim 12, and further in view of Taguchi. As set forth above and in light of the clarifying amendment made to claim 12, a prima facie case of obviousness has not been made.

In order to combine prior art references and make a case for obviousness, there must be some suggestion or motivation in the art to so combine them. Here, there is not.

Taguchi does not reference the use of its foam inside gabions and, although that inventor does reference floating objects such as airports, pontoon bridges and tennis courts, it is only in a cursory manner and it is far from clear how the invention may have been applied to such structures. It is most likely, given the context of the reference, that the inventors were referring to the use of their strengthened foam as a replacement for wooden platforms that make up the roadway.

Knott's patent issued more than five years after Taguchi and does not reference or suggest buoyant gabions. In fact, the focus in the Knott patent is on maintaining integrity of the stiff large gauge gabion in order to retain the large stones used as filler material without the use of some kind of encapsulation. In this way, combining Taguchi with Knott would be inconsistent with the teachings of Knott. The problems being addressed are dissimilar.

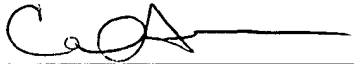
The problem addressed in the instant Application is as follows: "A need remains for a method that allows a construction of a temporary road or platform in wetland or marshland areas that will support the weight of heavy equipment, yet will not damage

the environment." None of the cited references provide motivation to combine the arts to address this problem.

For all of the reasons advanced above, Applicant respectfully submits that this Application is in condition for allowance, which is earnestly solicited. If the Examiner has any questions concerning this case, please direct them to Carl Ronald at (412) 594-3912.

Respectfully Submitted,
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